

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow. Claims 25, 28-34, 36, 38-42, 46-47, and 49-55 have been amended. Claims 26-27, 35, 37, 43-45, 48 were previously canceled. No new matter has been added. Accordingly, Claims 25, 28-34, 36, 38-42, 46-47, and 49-55 will be pending in this application following entry of this Amendment and Reply.

Claim Objections

In Section 2 on page 2 of the Office Action, the Examiner objected to Claims 25 and 46 on the grounds that each recites, “along *said foot of the or* each return panel . . . a water drain gap *between the foot of the or* each return panel . . .” such that the Examiner requests clarity for the term “*the or*.”

Amended Claim 25 now recites, among other elements, “the shower base supports the return panel along the foot . . . a water drain gap is disposed between the foot and the shower base . . .”

Amended Claim 46 now recites, among other elements, “a step formed at a peripheral edge of the floor adjacent the drain channel to receive on the step the foot of the return panel and support the return panel from the shower base.”

Applicant believes the Examiner’s objection is overcome in view of the foregoing amendments. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the objection.

Specification

In Section 3 on page 2 of the Office Action, the Examiner objected to the disclosure on formal grounds, stating, “Paragraphs are not enumerated (see remarks, page 7, line 7). Appropriate action required.”

Applicant respectfully submits that the pending application (U.S. Patent Application No. 11/593,534) was published on March 29, 2007 as U.S. Patent Application Publication No. 2007/0067903 with paragraph numbers enumerating the paragraphs of the application. Applicant believes the Examiner's objection is moot in view of the publication containing paragraph numbers. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the objection.

Claim Rejections – 35 U.S.C. § 103

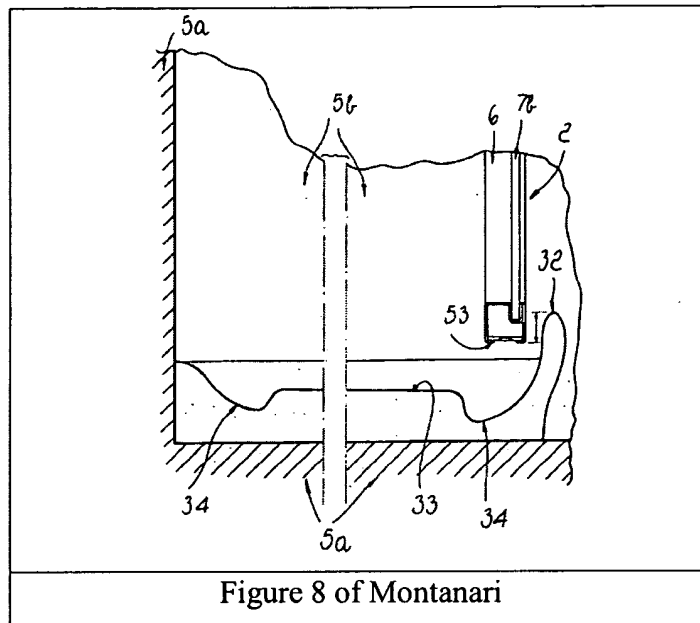
1. Montanari in view of Payne

In Section 5 on page 3 of the Office Action, Claims 25 and 28 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,792,721 to Montanari in view of U.S. Patent No. 999,858 to Payne. Applicant respectfully traverses this rejection.

Amended independent Claim 25 recites, among other elements, a shower enclosure that includes a “door,” a “return panel having a foot,” and a “shower base,” where the “shower base” includes a “drain channel” that is arranged to drain into a waste outlet and “an integral formation” that is “shaped to **mount** the foot thereto, such that the shower base supports the return panel along the foot.”

Montanari, whether taken alone or in combination with Payne, fails to disclose, teach, or suggest the combination of elements recited in amended Claim 25, for example, a shower enclosure that includes a “door,” at least one “return panel having a foot,” and a “shower base,” where the “shower base” includes a “drain channel” that is arranged to drain into a waste outlet and “at least one integral formation” that is “shaped to **mount** the foot thereto, such that the shower base supports the at least one return panel along the foot.”

As shown in Figure 8 of Montanari (reproduced below), Montanari discloses a shower apparatus that includes an “enclosure 2” that **does not contact** the “shower tray 3” (represented by the combination of elements “32” and “33”).



In fact, the arrangement of having the “enclosure 2” disconnected or not in contact with the “shower tray 3” is an intended purpose of Montanari, which is stated in column 4, lines 56-61 (emphasis added):

It has thus been observed that the invention has achieved the intended aim and objects, a shower apparatus having been provided which is simple to install and easy and straightforward to clean, since there is no contact between the shower enclosure, which is suspended from two lateral posts, and the underlying shower tray.

This intended purpose is also discussed in the “Summary of the Invention” Section of Montanari:

This aim and these and other objects which will become better apparent hereinafter are achieved by a shower apparatus, comprising an enclosure or a door and a shower tray, characterized in that said enclosure or door and said shower tray are mutually disconnected, said enclosure or door having means for adjustable connection to the walls that form the cubicle for accommodating the apparatus.

In contrast to Montanari, Claim 25 recites, among other elements, that the “shower base” includes “an integral formation” that is “shaped to mount the foot” of the “return panel” thereto, such that the “shower base supports the return panel along the foot.” The enclosure having a return panel mounted to and supported by the base may advantageously provide better weight distribution of the panel by having the floor support some of the weight and avoiding the arrangement of the panel being a cantilever beam extending away from the wall, such that the wall bears the entire load of the enclosure.

On page 4 of the Office Action, the Examiner suggested that one skilled in the art would seek to combine Payne with Montanari to overcome the deficiencies of Montanari by stating (emphasis added):

Payne, an analogous art, teaches, as broadly claimed, a “shaped formation” 12. . . The examiner interprets the formation 12 as receiving the panel 2, since it is placed upon the formation. The rejection stands. . .

Applicant respectfully submits that such a combination of Montanari and Payne, as suggested by the Examiner, is improper, because such a combination would render Montanari unsatisfactory for an intended purpose.¹ As discussed above, Montanari has an intended purpose to provide a shower system where the “enclosure 2” does not contact the “shower tray 3.” Therefore, combining the “formation 12” of Payne, which is configured to receive the “panel 2,” with Montanari in the manner suggested by the Examiner would destroy this intended purpose of Montanari, because the “enclosure 2” would then contact the “shower tray 3,” through the “formation 12.”

Claim 28 depends from Claim 25 and is patentable for at least the same reasons as Claim 25, without regard to further elements recited therein. Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 25 and 28 under 35 U.S.C. § 103(a).

¹ See MPEP §§ 2413.01 and 2145. Also See *In re Gordon*, 733 F.2d 900.

2. Montanari in view of Payne and further in view of Zaccai et al.

In Section 6 on page 7 of the Office Action, Claims 29 and 52 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Montanari in view of Payne and further in view of U.S. Patent No. 5,243,716 to Zaccai et al. (“Zaccai”). Applicant respectfully traverses this rejection.

As discussed above, Applicant respectfully submits that the combination of Montanari and Payne is improper, because such a combination would render Montanari unsatisfactory for an intended purpose.

Also as discussed above, Montanari, whether taken alone or in combination with Payne, fails to disclose, teach, or suggest the combination of elements recited in amended Claim 25. The introduction of Zaccai fails to cure the deficiencies discussed above. Zaccai appears to be directed toward a drainage system for a shower floor and appears not to disclose a “return panel” or “door” of an enclosure, let alone a “return panel” that is configured to mount to a “formation” disposed “around the front side of the shower base.” Further, Zaccai fails to disclose, teach, or suggest, for example, a shower enclosure that includes a “door,” a “return panel having a foot,” and a “shower base,” where the “shower base” includes a “drain channel” that is arranged to drain into a waste outlet and “an integral formation” that is “shaped to mount the foot thereto, such that the shower base supports the return panel along the foot,” as recited in Claim 25. Accordingly, Claim 25 is patentable over the combination of Montanari, Payne, and Zaccai.

Claim 29 depends from Claim 25, and is patentable for at least the same reasons as Claim 25, without regard to further elements recited therein.

Amended independent Claim 50 (from which Claim 52 depends) recites, among other elements, a shower enclosure that includes a “door,” a “return panel,” and a shower base having “an integral formation” that is “shaped to receive a foot of the return panel and support from the shower base the return panel along the foot.”

Montanari, whether taken alone or in combination with Payne and Zaccai, fails to disclose, teach, or suggest the combination of elements recited in amended Claim 50, for example, the “shower base” having “an integral formation” that is “shaped to receive a foot of the return panel and support from the shower base the return panel along the foot.”

As discussed above, Montanari discloses a shower apparatus having an intended purpose of having the “enclosure 2” disconnected or not in contact with the “shower tray 3.” Thus, the arrangement of the “shower tray 3” of Montanari does not “support” the “enclosure 2” since the tray and enclosure are disconnected from each other. Payne and Zaccai fail to cure the deficiencies of Montanari at least for the same reasons discussed above. Accordingly, Claim 50 is patentable over the combination of Montanari, Payne, and Zaccai.

Claim 52 depends from Claim 50, and is patentable for at least the same reasons as Claim 50, without regard to further elements recited therein.

Applicant respectfully requests reconsideration and withdrawal of the rejection of Claims 29 and 52 under 35 U.S.C. § 103(a).

3. Montanari in view of Payne and further in view of Jurek

In Section 7 on page 7 of the Office Action, Claims 30-31, 51, and 53 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Montanari in view of Payne and further in view of U.S. Patent No. 5,911,518 to Jurek. In Section 8 on page 9 of the Office Action, Claim 25 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Montanari in view of Payne and Jurek. In Section 11 on page 11 of the Office Action, Claims 36, 39, and 50 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Montanari in view of Payne and Jurek. Applicant respectfully traverses these rejections.

As discussed above, Applicant respectfully submits that the combination of Montanari and Payne is improper, because such a combination would render Montanari unsatisfactory for an intended purpose.

Also as discussed above, Montanari, whether taken alone or in combination with Payne, fails to disclose, teach, or suggest the combination of elements recited in amended Claim 25. The introduction of Jurek fails to cure the deficiencies discussed above. The Examiner only relied on Jurek for teaching a “floor that falls.” Jurek appears to be directed toward a shower having a drainage system that includes a gap disposed between the rear wall and the floor of the shower for water to flow therebetween. Jurek also does not appear to disclose, teach, or suggest a shower enclosure that includes a “door,” a “return panel having a foot,” and a “shower base,” where the “shower base” includes a “drain channel” that is arranged to drain into a waste outlet and “an integral formation” that is “shaped to mount the foot thereto, such that the shower base supports the return panel along the foot,” as recited in Claim 25. Accordingly, Claim 25 is patentable over the combination of Montanari, Payne, and Jurek.

Claims 30-31 depend from Claim 25, and are patentable for at least the same reasons as Claim 25, without regard to further elements recited therein.

As discussed above, Montanari, whether taken alone or in combination with Payne, fails to disclose, teach, or suggest the combination of elements recited in amended Claim 50. The introduction of Jurek fails to cure the deficiencies discussed above, because Jurek fails to disclose, teach, or suggest, for example, “an integral formation between a periphery of the floor and the drain channel, the integral formation being shaped to receive a foot of the return panel and support from the shower base the return panel along the foot of the return panel” and where “the shower base also includes an integral water drain cut-out through the integral formation.” Accordingly, Claim 50 is patentable over the combination of Montanari, Payne, and Jurek.

Claims 51 and 53 depend from Claim 50, and are patentable for at least the same reasons as Claim 50, without regard to further elements recited therein.

Amended independent Claim 36 recites, among other elements, a “shower base” that includes a “formation” for “mounting to the shower base a return panel of a shower enclosure disposed on a side of a door of the shower enclosure along a foot of the return panel” and “an

integral water drain cut-out through the formation for water flow to beneath the return panel supported by the formation.”

As discussed above, Montanari discloses a shower apparatus having an intended purpose of having the “enclosure 2” disconnected or not in contact with the “shower tray 3.” Thus, the arrangement of the “enclosure 2” of Montanari does not “mount to” and is not “supported” by the “shower tray 3” since they are disconnected from each other. Payne and Jurek fail to cure the deficiencies of Montanari for at least the same reasons discussed above.

Further, the combination of Montanari, Payne, and Jurek fails to disclose, teach, or suggest the “water drain cut-out through the formation,” as recited in Claim 36. The Examiner characterized Payne as disclosing a “formation 12” in the form of the “button 12.” However, Payne fails to disclose the “button 12” having a “water drain cut-out through” it, and neither Montanari nor Jurek cure this deficiency.

Accordingly, Claim 36 is patentable, because at least one element recited in Claim 36 is not disclosed, taught, or suggested by the combination of Montanari, Payne, and Jurek. Claim 39 depends from Claim 30, and is patentable for at least the same reasons as Claim 30, without regard to further elements recited therein.

Applicant respectfully requests reconsideration and withdrawal of the rejection of Claims 25, 30-31, 36, 39, 50, and 51 under 35 U.S.C. § 103(a).

4. Montanari in view of Payne and further in view of Gerloff

In Section 9 on page 10 of the Office Action, Claims 32-33 and 54-55 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Montanari in view of Payne and further in view of U.S. Patent Application Publication No. 2002/0066140 to Gerloff. Applicant respectfully traverses this rejection.

As discussed above, Applicant respectfully submits that the combination of Montanari and Payne is improper, because such a combination would render Montanari unsatisfactory for an intended purpose.

Also as discussed above, Montanari, whether taken alone or in combination with Payne, fails to disclose, teach, or suggest the combination of elements recited in amended Claim 25. The introduction of Gerloff fails to cure the deficiencies discussed above. For example, Gerloff also fails to disclose, teach, or suggest a shower enclosure that includes a “door,” a “return panel having a foot,” and a “shower base,” where the “shower base” includes a “drain channel” that is arranged to drain into a waste outlet and “an integral formation” that is “shaped to mount the foot thereto, such that the shower base supports the return panel along the foot,” as recited in Claim 25. Accordingly, Claim 25 is patentable over the combination of Montanari, Payne, and Gerloff.

Claims 32-33 depend from Claim 25, and are patentable for at least the same reasons as Claim 25, without regard to further elements recited therein.

Also discussed above, Montanari, whether taken alone or in combination with Payne, fails to disclose, teach, or suggest the combination of elements recited in amended Claim 50. The introduction of Gerloff fails to cure the deficiencies discussed above. For example, Gerloff fails to disclose, teach, or suggest a “shower base” having “an integral formation” that is “shaped to receive a foot of the return panel and support from the shower base the return panel along the foot of the return panel,” as recited in Claim 50. Accordingly, Claim 50 is patentable over the combination of Montanari, Payne, and Gerloff.

Claims 54 and 55 depend from Claim 50, and are patentable for at least the same reasons as Claim 50, without regard to further elements recited therein.

Applicant respectfully requests reconsideration and withdrawal of the rejection of Claims 32-33 and 54-55 under 35 U.S.C. § 103(a).

5. Montanari in view of Payne and further in view of McAllister

In Section 10 on page 10 of the Office Action, Claim 34 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Montanari in view of Payne and further in view of U.S. Patent No. 6,381,773 to McAllister. Applicant respectfully traverses this rejection.

As discussed above, Applicant respectfully submits that the combination of Montanari and Payne is improper, because such a combination would render Montanari unsatisfactory for an intended purpose.

Also as discussed above, Montanari, whether taken alone or in combination with Payne, fails to disclose, teach, or suggest the combination of elements recited in amended Claim 25. The introduction of McAllister fails to cure the deficiencies discussed above. For example, McAllister also fails to disclose, teach, or suggest a shower enclosure that includes a “door,” a “return panel having a foot,” and a “shower base,” where the “shower base” includes a “drain channel” that is arranged to drain into a waste outlet and “an integral formation” that is “shaped to mount the foot thereto, such that the shower base supports the return panel along the foot,” as recited in Claim 25. Accordingly, Claim 25 is patentable over the combination of Montanari, Payne, and McAllister.

Claim 34 depends from Claim 25, and is patentable for at least the same reasons as Claim 25, without regard to further elements recited therein. Applicant respectfully requests reconsideration and withdrawal of the rejection of Claim 34 under 35 U.S.C. § 103(a).

6. Montanari in view of Payne, Jurek, and Zaccai

In Section 12 on page 11 of the Office Action, Claim 38 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Montanari in view of Payne and Jurek and further in view of Zaccai. Applicant respectfully traverses this rejection.

As discussed above, Applicant respectfully submits that the combination of Montanari and Payne is improper, because such a combination would render Montanari unsatisfactory for an intended purpose.

Also as discussed above, Montanari, whether taken alone or in combination with Payne and Jurek, fails to disclose, teach, or suggest the combination of elements recited in amended Claim 36. The addition of Zaccai fails to cure the deficiencies discussed above. For example, Zaccai also fails to disclose, teach, or suggest the “a formation disposed around the front side of the shower base for mounting to the shower base a return panel of a shower enclosure disposed on a side of a door of the shower enclosure along a foot of the return panel,” as recited in Claim 36. Accordingly, Claim 36 is patentable over the combination of Montanari, Payne, Jurek and Zaccai.

Claim 38 depends from Claim 36, and is patentable for at least the same reasons as Claim 36, without regard to further elements recited therein. Applicant respectfully requests reconsideration and withdrawal of the rejection of Claim 38 under 35 U.S.C. § 103(a).

7. Montanari in view of Payne, Jurek, and Gerloff

In Section 13 on page 11 of the Office Action, Claims 40 and 41 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Montanari in view of Payne, Jurek, and further in view of Gerloff. Applicant respectfully traverses this rejection.

As discussed above, Applicant respectfully submits that the combination of Montanari and Payne is improper, because such a combination would render Montanari unsatisfactory for an intended purpose.

Also as discussed above, Montanari, whether taken alone or in combination with Payne and Jurek, fails to disclose, teach, or suggest the combination of elements recited in amended Claim 36. The introduction of Gerloff fails to cure the deficiencies discussed above. For example, Gerloff also fails to disclose, teach, or suggest the “a formation disposed around the

front side of the shower base for mounting to the shower base a return panel of a shower enclosure disposed on a side of a door of the shower enclosure along a foot of the return panel,” as recited in Claim 36. Accordingly, Claim 36 is patentable over the combination of Montanari, Payne, Jurek, and Gerloff.

Claims 40 and 41 depend from Claim 36, and are patentable for at least the same reasons as Claim 36, without regard to further elements recited therein. Applicant respectfully requests reconsideration and withdrawal of the rejection of Claims 40 and 41 under 35 U.S.C. § 103(a).

8. Montanari in view of Payne, Jurek, and McAllister

In Section 14 on page 12 of the Office Action, Claim 42 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Montanari in view of Payne, Jurek, and further in view of McAllister. Applicant respectfully traverses this rejection.

As discussed above, Applicant respectfully submits that the combination of Montanari and Payne is improper, because such a combination would render Montanari unsatisfactory for an intended purpose.

Also as discussed above, Montanari, whether taken alone or in combination with Payne and Jurek, fails to disclose, teach, or suggest the combination of elements recited in amended Claim 36. The introduction of McAllister fails to cure the deficiencies discussed above. For example, McAllister also fails to disclose, teach, or suggest the “a formation disposed around the front side of the shower base for mounting to the shower base a return panel of a shower enclosure disposed on a side of a door of the shower enclosure along a foot of the return panel,” as recited in Claim 36. Accordingly, Claim 36 is patentable over the combination of Montanari, Payne, Jurek, and McAllister.

Claim 42 depends from Claim 36, and is patentable for at least the same reasons as Claim 36, without regard to further elements recited therein. Applicant respectfully requests reconsideration and withdrawal of the rejection of Claim 42 under 35 U.S.C. § 103(a).

9. Montanari in view of Payne, Jurek, and Torres

In Section 15 on page 12 of the Office Action, Claims 46 and 49 were under 35 U.S.C. § 103(a) as being unpatentable over Montanari in view of Payne, Jurek, and further in view of U.S. Patent No. 7,490,371 to Torres. Applicant respectfully traverses this rejection.

As discussed above, Applicant respectfully submits that the combination of Montanari and Payne is improper, because such a combination would render Montanari unsatisfactory for an intended purpose.

Also as discussed above, Montanari, whether taken alone or in combination with Payne and Jurek, fails to disclose, teach, or suggest the combination of elements recited in amended Claims 25 and 36. The introduction of Torres fails to cure the deficiencies discussed above.

With respect to Claim 25, Torres also fails to disclose, teach, or suggest a shower enclosure that includes a “door,” a “return panel having a foot,” and a “shower base,” where the “shower base” includes a “drain channel” that is arranged to drain into a waste outlet and “an integral formation” that is “shaped to mount the foot thereto, such that the shower base supports the return panel along the foot.”

With respect to Claim 36, Torres also fails to disclose, teach, or suggest the “a formation disposed around the front side of the shower base for mounting to the shower base a return panel of a shower enclosure disposed on a side of a door of the shower enclosure along a foot of the return panel.”

Accordingly, Claims 25 and 36 are patentable over the combination of Montanari, Payne, Jurek, and Torres.

Claims 46 and 49 depend from Claims 25 and 36, respectively, and are patentable for at least the same reasons as Claims 25 and 36, without regard to further elements recited therein. Applicant respectfully requests reconsideration and withdrawal of the rejection of Claims 46 and 49 under 35 U.S.C. § 103(a).

10. Montanari in view of Payne, and Lewis

In Section 16 on page 13 of the Office Action, Claims 47 and 50 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Montanari in view of Payne and further in view of U.S. Patent Application Publication No. 2006/0182926 to Lewis. In Section 17 on page 13 of the Office Action, Claims 36 and 50 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Montanari in view of Payne and further in view of Lewis. Applicant respectfully traverses these rejections.

As discussed above, Applicant respectfully submits that the combination of Montanari and Payne is improper, because such a combination would render Montanari unsatisfactory for an intended purpose.

Also as discussed above, Montanari, whether taken alone or in combination with Payne, fails to disclose, teach, or suggest the combination of elements recited in each of independent Claims 25, 36, and 50. The introduction of Lewis fails to cure the deficiencies discussed above for each of Claims 25, 36, and 50.

With respect to Claim 25, Lewis also fails to disclose, teach, or suggest a shower enclosure that includes a “door,” a “return panel having a foot,” and a “shower base,” where the “shower base” includes a “drain channel” that is arranged to drain into a waste outlet and “an integral formation” that is “shaped to mount the foot thereto, such that the shower base supports the return panel along the foot.”

With respect to Claim 36, Lewis also fails to disclose, teach, or suggest the “a formation disposed around the front side of the shower base for mounting to the shower base a return panel of a shower enclosure disposed on a side of a door of the shower enclosure along a foot of the return panel.”

With respect to Claim 50, Lewis also fails to disclose, teach, or suggest the “shower base” having “an integral formation” that is “shaped to receive a foot of the return panel and support from the shower base the return panel along the foot.”

Accordingly, Claims 25, 36, and 50 are patentable over the combination of Montanari, Payne, and Lewis.

Claim 47 depends from Claim 25, and is patentable for at least the same reasons as Claim 25, without regard to further elements recited therein.

Applicant respectfully requests reconsideration and withdrawal of these rejections of Claims 36, 47, and 50 under 35 U.S.C. § 103(a).

* * *

It is submitted that each outstanding rejection to the Application has been overcome, and that the application is now in a condition for allowance. Applicant respectfully requests favorable reconsideration of the application as amended and allowance of all pending claims.

It should also be noted that although the Applicant has only addressed certain claims or claimed features herein, other claims, features, or combinations of features may also be patentable for additional reasons. Further, the failure to address any statement by the Examiner should not be interpreted as acquiescence or agreement with such statement. The Applicant expressly reserves the right to rebut any statement presented by the Examiner and to set forth additional and/or alternative reasons for patentability during prosecution of the present Application or in any other future proceeding. For example, although currently moot, the Applicant expressly reserves the right to address use of case law quotations with regard to the examination of claim elements, as may be relevant in any other future proceeding.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by the credit card payment instructions in EFS-Web being incorrect or absent, resulting in a rejected or incorrect credit card transaction, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date: December 5, 2011

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By

A handwritten signature in black ink, appearing to read 'M. Sprow', is written over a horizontal line.

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